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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91222198
Party	Defendant McGuinness, Megan
Correspondence Address	MCGUINNESS, MEGAN 14450 N. Thompson Peak Pkwy #207 Scottsdale, AZ 85260 disruptivecharm@gmail.com;ekno@usc.edu
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Megan
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Date	07/08/2015
Attachments	McGuinness Response to Opposition.pdf(113089 bytes)

UNITED STATES PATENT AND
TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Filed: July 7, 2015
Opposition No. 91222198
Serial No. 86388952

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In response to the opposition, No. 91222198, submitted by TBWA Worldwide Inc.
regarding the trademark application Serial No. 86-388,952.

For the mark **DISRUPTIVE CHARM**

Published in the *Official Gazette* on Feb 3, 2015

The above-identified opposer, TBWA Worldwide, Inc., bases his/her/its opposition upon
matter of “priority and likelihood of confusion” regarding the registration of the
DISRUPTIVE CHARM shown in the above-identified application.

Goods/Services Being Opposed

Class 016.

All goods and services in the class are opposed, namely: A series of books and written
articles in the field of business leadership, professional development, and business
success

Class 041.

All goods and services in the class are opposed, namely: Education services, namely,
providing live and online workshops, classes, seminars, lectures, and conferences in the
field of business leadership, professional development, and business success.

Opposition is being based upon

Priority and likelihood of confusion

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No. 3138215 Registration Date 09/05/2006

Word Mark DISRUPTION

Class 035.

Advertising and marketing services; business marketing consulting services; brand development and brand consulting services; market research services; advertising agency services; public relations services; and interactive marketing and advertising services

Class 041.

Workshops, forums, seminars and training in the field of advertising and marketing communications

U.S. Application No. 86564892 Registration Date NONE

Word Mark DISRUPTION

Class 016. First use: First Use: 0 First Use In Commerce: 0

A series of books and written articles in the field of advertising and marketing

U.S. Application No.86355049

Class 035. First use: First Use: 0 First Use In Commerce: 0

Digital advertising services; advertising services, namely, promoting and marketing the goods and services of others through all public communication means; advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; business consulting and information services; business organization consulting; business management consulting; business consulting services, namely, providing assistance in development of business strategies and creative ideation

Class 042. First use: First Use: 0 First Use In Commerce: 0

Website design and development for others; website design consultancy

RESPONSE TO OPPOSITION

The applicant, Megan McGuinness, registered DISRUPTIVE CHARM in International Class 16 for “A series of books and written articles in the field of business leadership, professional development, and business success” and in International Class 41 for “Education services, namely, providing live and online workshops, classes, seminars, lectures, and conferences in the field of business leadership, professional development, and business success.”

1. Response to the Opposer, TBWA, that to date, no amendment of use has been filed. The Opposer cites registrations that are not in use as evidenced in No. 86564892 and No. 86355049. The same claim could be made to the Opposer; thus, refuting this opposition. As claimed on September 9, 2014, the applicant, Megan McGuinness intends to use the mark for the noted subject goods and services. As having obtained the legal trademark rights, the applicant is obligated and entitled to do so at any time.
2. Response to the Opposer, TBWA, that the applicant’s mark DISRUPTIVE CHARM supposedly has similar products and services. The opposer’s application cites services in the domain of advertising, marketing, and business consultation. The applicant’s U.S. Serial No. 86-388,952 specifically address leadership development and business success in the form of outputs such as workshops, seminars, lectures, and conferences—none of which are cited within the Opposer’s registrations. These outputs remain absent from the registrations of the opposer (U.S. Reg. No. 3138215; U.S. Application Serial No. 86564892; U.S. Application Serial No. 86355049). Consultation, as cited by the Opposer, is not the same as those cited by the Applicant. Moreover, one of the Opposer’s applications were submitted (U.S. Application No. 86564892) after the Applicant’s application.

3. Response to the Opposer, TBWA, that the applicant's mark DISRUPTIVE creates confusion between DISRUPTION and DISRUPTIVE CHARM. As defined within the Merriam-Webster definition (2015), "disruption" is in fact considered to be a *Noun* and defined as: "an act or instance of the order of things being disturbed." DISRUPTIVE, as part of the Applicant's mark of DISRUPTIVE CHARM is an *Adjective* and is defined as: "characterized by psychologically disorganized behavior." Furthermore, by pairing CHARM with DISRUPTIVE, this entirely separates itself from the term DISRUPTION, not only by definition, but in how the concept is practically applied in life, used as a dichotomous aspect of behavioral development, and thus, an entirely distinct interpretation relative to DISRUPTION. Thus, this refutes the Opposer's claim that DISRUPTIVE CHARM creates confusion.

WHEREFORE, Applicant, Megan McGuinness requests that Opposition No. 91222198 be rejected and that no further oppositions be received or issued by the Opposer, and that this response to opposition be received in favor of Megan McGuinness.

Please address all future communications regarding this matter to:

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Sincerely,

Megan McGuinness, Ed.D.

Date: July 7, 2015

By: /Megan A. McGuinness/
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Certificate of Service

I hereby certify that a true and complete copy of the foregoing (Response to Opposition) has been served on Susan A. Smith of Kenyon & Kenyon LLP by mailing said copy on (insert date of mailing, via postage prepaid (by U.S. Mail) to:

KENYON & KENYON LLP
1500 K Street, N.W.; Suite 700
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Signature /Megan A. McGuinness/

Date: July 7, 2015